

Charges for radio broadcasts, including those provided from satellites, are similar to charges for cable television programming and are not generally subject to telecommunications tax liability in Illinois. See 86 Ill. Adm. Code 495. (This is a GIL.)

June 9, 2003

Dear Xxxxx:

This letter is in response to your letter dated February 19, 2003. We apologize for the delay in responding to your inquiry. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found on the Department's Internet website at <http://www.revenue.state.il.us/Laws/regs/part1200/>.

In your letter, you have stated and made inquiry as follows:

Pursuant to our conversation earlier today, AAA is a tax compliance software company. We are currently researching the taxability issue of 'satellite radio service'. Currently satellite radio service is only provided by a finite number of companies. One particular company beams programming from their studios to three state-of-the-art satellites moving high above the earth in figure eight, geo-synchronous orbits. The programming is then broadcast back down to every inch of the continental United States. This means that the consumer gets high quality programming, which is commercial free, and continuous service because the signal does not fade.

The customer initially purchases the satellite radio or an adaptor kit for the existing radio in the car. In either case a satellite receiver and an antenna must also be installed in the vehicle. The customer must then pay a one-time activation fee. In addition the company charges subscribers a monthly fee for its service.

Based upon these facts, we pose the following questions to your department as a means of receiving an informal, non-binding written response.

Questions:

- A. Is the purchase of the satellite radio itself subject to tax?
- B. Is the one time activation fee subject to tax?
- C. Finally, is the monthly service fee subject to the Telecommunication Excise Tax?

If you wish you may fax your response to me or e-mail me. Within your response please quote any official sources such as statutes, regulations or letter rulings that may apply.

Thanking you in advance for your timely response to the inquiry letter.

DEPARTMENT'S RESPONSE:

The Illinois Retailers' Occupation Tax Act imposes a tax upon persons engaged in this State in the business of selling tangible personal property to purchasers for use or consumption. See 86 Ill. Adm. Code 130.101. In Illinois, Use Tax is imposed on the privilege of using, in this State, any kind of tangible personal property that is purchased anywhere at retail from a retailer. See 86 Ill. Adm. Code 150.101. These taxes comprise what is commonly known as "sales" tax in Illinois.

The sale and purchase of the satellite radio receiver, adapter kit, and antenna are all tangible personal property and the sale or purchase of such items for use and not for resale would be subject to sales tax liability in Illinois. As noted above, sales taxes are only imposed on transactions involving the sale of tangible personal property. The one-time activation fee and monthly service fee would not be subject to sales tax as long as the charges for those fees are not included in the selling price of the satellite radio receiver or other tangible personal property.

The Telecommunications Excise Tax is imposed upon the act or privilege of originating or receiving intrastate or interstate telecommunications in Illinois at the rate of 7% of the gross charges for such telecommunications purchased at retail from retailers. See 86 Ill. Adm. Code 495.100 et seq. The Department began collecting the Simplified Municipal Telecommunications Tax beginning with bills issued on and after January 1, 2003. The Simplified Municipal Telecommunications Tax is imposed in the same manner and on the same tax base as the State's Telecommunications Excise Tax. Charges for radio broadcasts, including those provided from satellites, are not generally subject to telecommunications tax liability in Illinois.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b) described above.

Very truly yours,

Terry D. Charlton
Associate Counsel

TDC:mks